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Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 L-03 DOTE-00 FMC-01
COME-00 SIG-01 FRB-03 OMB-01 ITC-01 SP-02 USIA-06
AGRE-00 AID-05 CIAE-00 INR-07 LAB-04 NSAE-00 OIC-02
SIL-01 STR-04 TRSE-00 CIEP-01 CEA-01 DODE-00 SAL-01
CG-00 DLOS-06 OES-06 /096 R

DRAFTED BY EB/TCA/MA:RBANK
APPROVED BY EB/TCA/MA:RBANK
IO/CMD - EBRUCE
EUR/RPE - ADSENS
L/EB - PMICKEY
DOT - WDRISCOLL
FMC - TCHRISTENSEN
MARAD - RBOURDON
----------191853Z 100487 /43
P R 191753Z JAN 77
FM SECSTATE WASHDC
TO USMISSION GENEVA PRIORITY
INFO AMEMBASSY LONDON
USMISSION OECD PARIS
AMEMBASSY OSLO
AMEMBASSY COPENHAGEN
AMEMBASSY HELSINKI
AMEMBASSY STOCKHOLM
USMISSION EC BRUSSELS
AMEMBASSY TOKYO
AMCONSUL HAMBURG

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FOR JOHN CROOK, USDEL3RD INTERGOVERNMENTAL PREP.GRP, UNCTAD

E.O. 11652:N/A

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TAGS: EWWT, SZ, OECD, ETRD, UNCTAD

SUBJECT:LINER CODE OF CONDUCT MEETING, JANUARY 22

1. IN REGARD TO MEETING ON CODE OF CONDUCT FOR LINER CONFERENCES, SCHEDULED FOR JANUARY 22, AND BACKGROUND DISCUSSIONS HELD BETWEEN BANK, CROOK AND JOHE IN WASHINGTON PRIOR TO DEPARTURE OF CROOK AND JOHE FOR GENEVA, IT IS NOW CERTAIN THAT FOR VARIOUS REASONS, BANK WILL NOT REPEAT NOT BE ABLE TO ATTEND INFORMAL MEETING ON JANUARY 22 IN GENEVA. BANK

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HAS DISCUSSED THIS MATTER AT LENGTH ON JANUARY 17 WITH CRISTOF HINZ OF THE FEDERAL GERMAN MINISTRY OF TRANSPORT (HAMBURG) WHO HAS BEEN INSTRUMENTAL IN CONVENING THE MEETING.

2. AS BACKGROUND, DEPARTMENT NOTES THAT DURING LAST SESSION OF OECD MATITIME TRANSPORT COMMITTEE (NOVEMBER 1976) FRG REPRESENTATIVE HINZ INDICATED DESIRE BY CERTAIN MEMBERS OF GROUP OF 77 (I.E. INDIA AND SRI LANKA) TO HOLD INFORMAL SESSION WITH GROUP B (OECD) AND OTHERS REGARDING CODE OF CONDUCT FOR LINER CONFERENCES. CODE,WHICH WAS ADOPTED IN GENEVA IN APRIL OF 19,4, AND WHICH REQUIRES TO COME INTO FORCE, ADHERENCE BY 24 STATES HAVING 25 PER CENT OF WORLD'S LINER TONNAGE (PER LLOYD'S LIST 1972) HAS REACHED A KIND OF HALF-WAY MARK. (1974 ADOPTION RESOLUTION FORESEES REVISION

CONFERENCE IN 5 YEARS, TO WIT: 1979.) CURRENTLY, ONLY 18 STATES WITH LESS THAN 4 PER CENT OF WORLD TONNAGE HAVE ADHERED TO CODE. THREE MAJOR WESTERN COUNTRIES WHICH SIGNED THE CODE AND HAVE INDICATED THAT THEY WOULD OPT FOR RATIFICATION (FRG, FRANCE AND BELGIUM) ARE CURRENTLY BARRED FROM RATIFYING UNDER AN INFORMAL AGREEMENT CONCLUDED WITH THE EC IN EXCHANGE FOR THE EC DROPPING A LAW SUIT CHARGING THE THREE WITH VIOLATION OF TREATY OF ROME. ADDITIONALLY, A NUMBER OF LDC SUPPORTERS OF THE CODE (SOME WHICH DUE TO DOMESTIC CONFLICTS HAVE NOT YET
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RATIFIED), ARE NOW BECOMING ANXIOUS CONCERNING CODE'S FUTURE AND HAVE IN FACT THREATENED THE TRADITIONAL MARITIME STATES WITH UNILATERAL ACTION (CARGO PREFERENCE LEGISLATION) SHOULD CODE NOT COME INTO FORCE. THESE LDC'S, HOWEVER, ARE REPORTEDLY READY TO CLOSE THEIR EYES TO SIGNIFICANT RESERVATIONS SO LONG AS THE SACRED COWS OF WORLD-WIDE 40-40-20 CARGO SHARING AND CLOSED CONFERENCES ARE GIVEN INTERNATIONAL LEGITIMATIZATION (SEE ADDITIONAL BACKGROUND BELOW). MEETING THEREFORE SCHEDULED TO ATTEMPT TO SATISFY SUPPORTERS OF CODE, AS WELL AS PERMIT BOTH SIDES OPPORTUNITY TO DISCUSS THE SCOPE AND NATURE OF FUTURE ACTIVITY.

3. IN HIS CONVERSATION WITH HINZ, BANK INFORMED THAT HINZ CANNOT FORECAST RESULT OF THE MEETING, BUT BELIEVES MAIN PURPOSE IS TO REESTABLISH CONTACT BETWEEN THE VARIOUS GROUPS AND TO ACTIVATE FORUM (ALBIET INFORMAL) BEFORE ANY FORMAL MEETINGS ARE SET. HINZ DESCRIBES MEETING AS "SYMBOLIC," AND SEES FOUR POSSIBLE RESULTS: 1) AN EXCHANGE OF INFORMATION BETWEEN THE PARTIES; 2) EXPLANATION BY EACH PARTY OF ITS PROBLEMS WITH THIS CODE; 3) POSSIBLE DISCUSSIONS BETWEEN PARTIES OF SOLUTIONS TO THE PROBLEMS OF THE CODE; 4) REESTABLISHMENT OF MACHINERY TO DISCUSS CODE

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QUESTION EITHER IN UNCTAD OR OUTSIDE UNCTAD.

4. IN REF TELCON, BANK INFORMED HINZ THAT BANK'S INABILITY TO ATTEND NOT BASED ON U.S. POLICY TO BELITTLE OR UNDERCUT IMPORTANCE OF MEETING, RATHER, DUE TO PRESS OF OTHER BUSINESS. FORTUNATELY, CROOK, WHO IS FAMILIAR WITH CODE, IN GENEVA FOR IPG. BANK INFORMED HINZ THAT U.S. DESIRES TO REESTABLISH CONTACT WITH ALL GROUPS ON THIS MATTER, ALTHOUGH RECOGNIZES, AS HINZ POINTED OUT, THAT SUBSTANTIVE RESULTS OF MEETING MIGHT BE MINIMAL.

5. TALKING POINTS ON U.S. POSITION TO BE USED BY CROOK AT MEETING, AS APPROPRIATE:
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(A) USG FEELS THAT WIDE RANGING DISCUSSIONS ON THIS MATTER ARE IMPORTANT AND COULD BE FRUITFUL.

(B) US BELIEVES THAT REESTABLISHMENT OF CONTACT WITH ALL GROUPS (GROUP OF 77 AND GROUP D) REGARDING FUTURE OF A CODE OF CONDUCT FOR LINER CONFERENCES IMPORTANT STEP.

(C) THE UNITED STATES CONTINUES TO HAVE AN OPEN MIND ON THE CONCEPT OF A CODE OF CONDUCT FOR LINER CONFERENCES, ALTHOUGH WE HAVE SIGNIFICANT PROBLEMS WITH THIS PARTICULAR CODE. WE VOTED AGAINST THE CODE AS IT IS NOW WRITTEN. OUR PROBLEMS ARE PRIMARILY CONCEPTUAL, LEGAL, AND ECONOMIC. (SEE FINAL STATEMENT OF U.S. DEL, APRIL 1974, U.S. DEPARTMENT OF STATE PRESS RELEASE ON CODE, AND PARA. 9 BELOW).

(D) U.S. IS WILLINT TO PARTICIPATE IN FUTURE DISCUSSIONS AND IS DESIROUS TO CONSIDER ALL ARGUMENTS.

(E) THE ABSENCE OF RICHARD K. BANK, DIRECTOR, OFFICE OF MARITIME AFFAIRS, IS SOLELY DUE TO PRESSING BUSINESS IN WASHINGTON. HE HAD PLANNED TO ATTEND THE MEETING IN GENEVA; FEELS THAT MEETING IS IMPORTANT; AND WILL AWAIT REPORT ON MEETING BY MR. CROOK.

6. IN RESPONSE TO QUESTIONS CONCERNING PROGRESS OF THE CODE WITHIN THE UNITED STATES, CROOK MAY REFER TO THE FOLLOWING THOUGHTS; THE QUESTION OF THE CODE HAS BEEN SOMEWHAT DORMANT IN THE U.S. OVER THE PAST TWO YEARS, ALTHOUGH THERE HAVE BEEN SOME PRIVATE STATEMENTS MADE AND SOME QUASI-GOVERNMENTAL STUDIES CONDUCTED. HOWEVER, NO NEW OVERALL DECISIONS ON THE CODE HAVE BEEN MADE. THE UNITED STATES GOVERNMENT CONTINUES TO LOOK AT T;E ENTI&E PROBLEM OF LINER CONFERENCES, AND WE ARE WILLING TO LISTEN TO ALL ARGUMENTS. WE WOULD BE ANXIOUS TO STUDY IDEAS CONCERNING POSSIBLE RESERVATIONS TO THE CODE, AND THE
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VARIOUS ARGUMENTS THEREON.

7. FYI. AS NOTED IN TELCON, BASIC STANCE OF U.S. REPRESENTATIVE SHOULD BE ONE OF INTERESTED PARTICIPANT, ALBIET PRIMARILY A LISTENER. U.S. TALKING POINTS SHOULD CONVEY TO PRO AND ANTI-CODIST BASIC U.S. OPPOSITION TO THIS SPECIFIC CODE, AS WELL AS OUR GENERAL OPEN-MINDEDNESS TO THE CONCEPT OF A CODE. IN SIDE CONVERSATIONS WITH UK, DENMARK, NORWAY, SWEDEN, FRG, CROOK MAY MENTION THAT IN MARCH, BANK EXPECTS TO REVIEW JANUARY 22 MEETING IN SERIES OF CONSULTATIONS AT EUROPEAN CAPITALS AS PART OF PREPARATION FOR OECD WORKING GROUP ON INTERNATIONAL ORGANIZATIONS SCHEDULED FOR MARCH 23-24, AND FOR UNCTAD COMMITTEE ON SHIPPING, APRIL 11 AND 22.

8. AS NOTED IN REF TELCON, THE MEETING ON THE CODE WITH THE LDC'S WILL OCCUR AT 10:00 A.M., SATURDAY, JANUARY 22

AT THE MEXICAN EMBASSY IN GENEVA, RUE DE LA TOURELLE 6. ADDITIONALLY, THERE WILL BE A PREPARATORY MEETING WITHIN GROUP B ON FRIDAY, JANUARY 21 AT 8:00 P.M. AT THE OECD OFFICES, RUE VAREMB 1. HINZ HAS INDICATED A STRONG DESIRE TO MEET WITH CROOK, EITHER ON THURSDAY, JANUARY 20 OR FRIDAY, JANUARY 21. HINZ WILL 0E STAYING AT RESIDENCE AMAT AND CAN BE CONTACTED THERE.

9. ADDITIONAL BACKGROUND ON CODE FOLLOWS; THE UNITED NATIONS CONFERENCE ON A CODE OF CONDUCT FOR LINER CONFERENCES ADOPTED, ON APRIL 6, 1974, A CONVENTION ON THE CODE OF CONDUCT FOR LINER CONFERENCES. ALL DEVELOPING COUNTRIES AND COMMUNIST COUNTRIES, AS WELL AS A FEW WESTERN DEVELOPED COUNTRIES VOTED IN FAVOR. FINAL VOTE WAS 72 TO 7 WITH 5 ABSTENTIONS. THE U.S., UK, NORWAY, SWEDEN, DENMARK, FINLAND AND SWITZERLAND VOTED AGAINST ADOPTION.

THE US PARTICIPATED IN ALL PREPARATORY WORK ON THE CONVENTION, AND IN MOST NEGOTIATING GROUPS, IN THE HOPE OF ACHIEVING A COMPROMISE RESULT ACCEPTABLE TO THE U.S.,SINCE THE U.S. SYMPATHIZED FROM THE BEGINNING WITH THE IDEA OF AN INTERNATIONAL CODE TO REGULATE CONFERENCE PRACTICES. US SYMPATHY AROSE FROM US EXPERIENCE IN THE REGULATION OF LINER CONFERENCES AND FROM US VIEW THAT REGULATORY RULES ARE MOST EFFECTIVE AND CAUSE LEAST FRICTION WHEN THEY ARE INTERNATIONALLY ESTABLISHED. MOREOVER, US SYMPATHIZED

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WITH ASPIRATIONS OF LDCS TO PROTECT THEIR TRADE INTERESTS BY REDRESSING THE BALANCE OF RIGHTS AND OBLIGATIONS AS BETWEEN CONFERENCES AND SHIPPERS IN THEIR OWN TRADES.

UNFORTUNATELY CERTAIN PROVISIONS OF THE CODE AS IT MATERIALIZED CONFLICT WITH BASIC US ECONOMIC POLICY VIEWS. THE US BELIEVES THAT COMPETITION AMONG SHIPPING LINES BENEFITS TRADE INTERESTS AND THAT CARGO-SHARING SCHEMES, LIKE MOST OTHER FORMS OF ECONOMIC PROTECTION, NO MATTER HOW ATTRACTIVE IN THE SHORT RUN, ARE OF LONG-TERM DETRIMENT TO THOSE PROTECTED. FURTHERMORE, THE US BELIEVES THAT ECONOMIC DEVELOPMENT BENEFITS FROM COMMERCIAL NEGOTIATION IN WAYS NOT ALWAYS FORESEEABLE OR CAPABLE OF PLANNING.

FOR THESE FUNDAMENTAL REASONS, THE US COULD NOT AGREE TO CERTAIN PROVISIONS OF THE CODE. IN PARTICULAR, THE MEMBERSHIP PROVISIONS ENCOURAGE THE CONTINUATION OF CLOSED CONFERENCES (WHICH IRONICALLY HAD BEEN BITTERLY ATTACKED BY THE LDCS IN PREVIOUS UNCTAD SHIPPING MEETINGS). THE CARGO

SHARING PROVISIONS WILL CARTELIZE THE TRANSPORTATION OF TRADE. SUCH PROVISIONS SUBORDINATE TRADE TO TRANSPORT; THEY RESTRICT THE CHOICES AVAILABLE TO SHIPPERS AND MAY RESULT IN DELAY OF SHIPMENTS AND CONSEQUENT LOSS OF TRADE. FINALLY, THE PROVISIONS ON FREIGHT RATES FREEZE THEM FOR UNDULY LONG PERIODS AND COULD STRANGLE THE LINER INDUSTRY.
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IN THE LONG RUN, RATE RIGIDITY COULD HURT SHIPPERS AS MUCH AS CARRIERS.

ADDITIONALLY, THE CODE WAS NEGOTIATED AND DRAFTED UNDER CONDITIONS WHICH DID NOT ALLOW SUFFICIENT TIME FOR DISCUSSION OF THE COMPLEX ISSUES INVOLVED OR FOR THE CUSTOMARY REVIEW OF THE TEXT BY A LEGAL DRAFTING GROUP. WE BELIEVE THE LACK OF CLARITY IN SOME PARTS OF THE CODE TEXT REFLECTS THIS HASTE.

ON BALLANCE, THE US CONCLUDED THAT ADOPTION OF THE CODE WOULD NOT PRODUCE NET BENEFITS TO THE US ECONOMY OVERALL OR TO AMERICAN SHIPPING LINES OR SHIPPERS. THE US ALSO DOUBTS THAT THE MORE HIGHLY-TOUTED PROVISIONS OF THE CODE, ESPECIALLY THOSE ON CARGO-SHARING AND FREIGHT RATES, WOULD BENEFIT MANY LDCS. CERTAIN CODE PROVISIONS MAY WELL WORK IN THE END TO REDUCE SERVICE AND INCREASE COSTS OF LINER SHIPPING TO MANY DEVELOPING COUNTRIES.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 22-Sep-1999 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MARINE TRANSPORTATION, STANDARDS, AGREEMENTS, COMMITTEE MEETINGS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE012514
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Drafter: EB/TCA/MA:RBANK
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Expiration:
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Previous Channel Indicators:
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Previous Handling Restrictions: n/a
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Retention: 0
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Review Withdrawn Fields: n/a
SAS ID: 3681642
Secure: OPEN
Status: NATIVE
Subject: LINER CODE OF CONDUCT MEETING, JANUARY 22
TAGS: EWWT, ETRD, OCON, SZ, OECD, UNCTAD, (CROOK, JOHN), (BANK), (JOHE)
To: GENEVA INFO LONDON MULTIPLE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/3e9784de-c288-dd11-92da-001cc4696bcc
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